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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,137	02/12/2002	Junichi Yamagishi	F-7234	8924

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

EXAMINER

HASHEM, LISA

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,137

Applicant(s)

YAMAGISHI, JUNICHI

Examiner

Lisa Hashem

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,7,10,11 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7,10,11 and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/2-12-2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 4, 5, 8, 9, 12, 16, 17, and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 19, 2004.
2. Applicant's election without traverse of claims 1-3, 6-7, 10-11, and 13-15 in the reply filed on April 19, 2004 is acknowledged.
3. Claims 1-3, 6-7, 10-11, and 13-15 are pending in this office action.

Information Disclosure Statement

4. An initialed and dated copy of Applicant's IDS form 1449, Paper No. 2, is attached to the instant office action.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1, 10, and 11 recite the limitation "the mobile communication terminal" in lines 2-3 on page 23, line 20 on page 25, and lines 1-2 on page 26, respectively. There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

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subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-3, 6-7, 10-11, and 13-15 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent Application Publication No. US 2001/0053944 by Marks et al, hereinafter Marks.

Regarding claim 1, Marks discloses a control apparatus using a mobile communication terminal (see Figure 1; pages 2-3, section 0031, lines 1-20) comprising: a play portion enabling a play according to personal information (page 4, section 0044, line 1 – page 5, section 0054, line 14); an input portion for inputting personal information from a mobile communication terminal (page 3: section 0034, line 1 – section 0035, line 13); and a control portion which makes a call to an accounting or billing center via an Internet service provider, based on the input of personal information by said mobile communication terminal and enables the play by said play portion based on said call, wherein said accounting center bills corresponding to said play (page 2, section 0020, lines 1-12; page 2: section 0021, line 1 – section 0022, line 6; page 7, section 0078, lines 1-2).

Regarding claim 2, Marks discloses a control apparatus (see Figure 1; pages 2-3, section 0031, lines 1-20) comprising: a play portion which stores play information and enables a play according to personal information (page 4, section 0044, line 1 – page 5, section 0054, line 14); an input portion for inputting personal information from a mobile communication terminal (page 3: section 0034, line 1 – section 0035, line 13); and a control portion which inherently makes a call to an information service center or network manager, wherein an Internet service provider will act as the agent for the network manager in providing audio service, based on the input of personal information through said mobile communication terminal and enables the play by said

play portion based on said call, wherein said information service center bills corresponding to said play (page 2, section 0020, lines 1-12; page 2: section 0021, line 1 – section 0022, line 6; page 7, section 0078, lines 1-2).

Regarding claim 3, a control apparatus using the mobile communication terminal according to claim 2 mentioned above, wherein Marks further discloses said information service center stores newly published play information and dispatches said newly published information corresponding to said call; and said control portion inherently receives said newly published information and outputs the newly published information prior to said play (pages 1-2: section 0013, lines 1-5; page 5, section 0049, lines 1-10; page 8, section 0080, lines 1-19; page 11, section 0107, lines 1-15).

Regarding claim 6, a control apparatus using the mobile communication terminal according to claim 2 mentioned above, wherein Marks further discloses an identification number input portion for inherently inputting an identification number as personal information, wherein said control portion makes a call to the information service center if said inputted identification number coincides with personal information (page 3, section 0033, lines 1-6; page 8, section 0081, lines 1-15; page 9, section 0090, lines 1-14).

Regarding claim 7, a control apparatus using the mobile communication terminal according to claim 3 mentioned above, wherein Marks further discloses an identification number input portion for inherently inputting an identification number as personal information, wherein said control portion makes a call to the information service center if said inputted identification number coincides with personal information (page 3, section 0033, lines 1-6; page 8, section 0081, lines 1-15; page 9, section 0090, lines 1-14).

Regarding claim 10, Marks discloses a control method using a mobile communication terminal (see Figure 1; pages 2-3, section 0031, lines 1-20) comprising: a play portion which stores play information and enables a play according to personal information (page 4, section 0044, line 1 – page 5, section 0054, line 14); an input portion for inputting personal information from a mobile communication terminal (page 3: section 0034, line 1 – section 0035, line 13); and a control portion which inherently makes a call to an information service center or network manager, wherein an Internet service provider will act as the agent for the network manager in providing audio service, based on the input of personal information through said mobile communication terminal and enables the play by said play portion based on said call, wherein said information service center bills corresponding to said play (page 2, section 0020, lines 1-12; page 2: section 0021, line 1 – section 0022, line 6; page 7, section 0078, lines 1-2).

Regarding claim 11, Marks discloses a control apparatus using a mobile communication terminal (see Figure 1; pages 2-3, section 0031, lines 1-20) comprising: a play portion enabling a play according to personal information (page 4, section 0044, line 1 – page 5, section 0054, line 14); an input portion for inputting personal information from a mobile communication terminal which can be connected to the Internet (page 3: section 0034, line 1 – section 0035, line 13); and a control portion which makes a call to an Internet service provider based on an input of personal information through said mobile communication terminal and allows a play by said play portion based on said call, wherein said Internet service provider bills corresponding to said play (page 2, section 0020, lines 1-12; page 2: section 0021, line 1 – section 0022, line 6; page 7, section 0078, lines 1-2).

Regarding claim 13, a control apparatus using the mobile communication terminal according to claim 1 mentioned above, wherein Marks further discloses said mobile communication terminal makes said input by radio (pages 2-3, section 0031, lines 1-20; page 5, section 0054, lines 1-14).

Regarding claims 14, a control apparatus using the mobile communication terminal according to claim 2 mentioned above, wherein Marks further discloses said mobile communication terminal makes said input by radio (pages 2-3, section 0031, lines 1-20; page 5, section 0054, lines 1-14).

Regarding claim 15, a control apparatus using the mobile communication terminal according to claim 3 mentioned above, wherein Marks further discloses said mobile communication terminal makes said input by radio (pages 2-3, section 0031, lines 1-20; page 5, section 0054, lines 1-14).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- U.S. Patent No. 6,233,603 by Matsushita et al disclose a play device for generating a synthesized self-portrait which includes a photographed image of a player and frame; the device includes a network server for providing self-portrait data of each player assigned to an ID code, a management device for managing the play device, and a monitoring system for monitoring various operation conditions of the play device

10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for formal communications intended for entry)

Or call:

(703) 306-0377 (for customer service assistance)

Hand-delivered responses should be brought to: Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa Hashem whose telephone number is (703) 305-4302. The examiner can normally be reached on M-F 8:30-5:30.

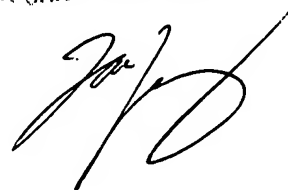
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

LH

lh

June 10, 2004

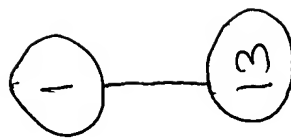
FAN TSANG
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10/074137

Election
Group 1

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